CHAPTER 175

AGRICULTURAL DEVELOPMENT

Referred to in §7C.4A, 16.1A, 16.221, 502.201

[SP] Continuation of former agricultural development authority rules, regulations, forms, orders, and directives until amended, repealed, or supplemented by the Iowa finance authority; transfer of personnel and outstanding legal obligations and rights; continuation of ongoing programs; appointment of new agricultural development board members; 2013 Acts, ch 100, §28 – 40; 2013 Acts, ch 140, §80 – 82

175.1 Short title.

This chapter shall be called and may be cited as the *"Iowa Agricultural Development Act"*.

[C81, §175.1]

175.2 Definitions.

1. As used in this chapter, unless the context otherwise requires:

a. *"Agricultural assets"* means agricultural land, depreciable agricultural property, crops, or livestock.

b. *"Agricultural improvements"* means any improvements, buildings, structures or fixtures suitable for use in farming which are located on agricultural land. *"Agricultural improvements"* includes a single-family dwelling located on agricultural land which is or will be occupied by the beginning farmer and structures attached to or incidental to the use of the dwelling.

c. *"Agricultural land"* means land suitable for use in farming.

d. *"Agricultural producer"* means a person that engages or wishes to engage or intends to engage in the business of producing and marketing agricultural produce in this state.

e. *"Authority"* means the Iowa finance authority created in section 16.1A.

f. *"Bankhead-Jones Farm Tenant Act"* means the Act cited as 50 Stat. 522 (1937), formerly codified as 7 U.S.C. § 1000 et seq., repealed by Pub. L. No. 87-128 (1961).

g. *"Beginning farmer"* means an individual, partnership, family farm corporation, or family farm limited liability company, as defined in section 9H.1, with a low or moderate net worth that engages in farming or wishes to engage in farming.

h. *"Beginning farmer tax credit program"* means all of the following:

(1) The agricultural assets transfer tax credit as provided in section 175.37.

(2) The custom farming contract tax credit as provided in section 175.38.

i. *"Board"* means the agricultural development board created in section 175.3.

j. *"Bonds"* means bonds issued by the authority pursuant to this chapter.

k. *"Conservation farm equipment"* means the specialized planters, cultivators, and tillage equipment used for reduced tillage or no-till planting of row crops.

l. *"Depreciable agricultural property"* means personal property suitable for use in farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the Internal Revenue Code as defined in section 422.3.

m. *"Executive director"* means the executive director of the Iowa finance authority appointed pursuant to section 16.6.

n. *"Farming"* means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, the production of forest products, or other activities designated by the authority by rules subject to chapter 17A.

o. *"Lending institution"* means a bank, trust company, mortgage company, national banking association, life insurance company, any state or federal governmental agency or instrumentality, including without limitation the federal land bank or any of its local associations, or any other financial institution or entity authorized to make farm operating loans in this state.

p. (1) *"Low or moderate net worth"* means a person's aggregate net worth calculated as a designated amount established pursuant to rules adopted by the authority and effective for one year. The designated amount shall be established by January 1 of each year by adjusting the designated amount effective on the previous December 31. The authority shall establish the designated amount in accordance with the "prices paid by farmers index" as compiled by the United States department of agriculture.

(2) *"Low or moderate net worth"* as applied to the following persons means:

(a) For an individual, an aggregate net worth of the individual and the individual's spouse and minor children of less than the designated amount.

(b) For a partnership, an aggregate net worth of all partners, including each partner's net capital in the partnership, and each partner's spouse and minor children of less than twice the designated amount. However, the aggregate net worth of each partner and that partner's spouse and minor children shall not exceed the designated amount.

(c) For a family farm corporation, an aggregate net worth of all shareholders, including the value of each shareholder's share in the family farm corporation, and each shareholder's spouse and minor children of less than twice the designated amount. However, the aggregate net worth of each shareholder and that shareholder's spouse and minor children shall not exceed the designated amount.

(d) For a family farm limited liability company, an aggregate net worth of all members, including each member's ownership interest in the family farm limited liability company, and each member's spouse and minor children of less than twice the designated amount. However, the aggregate net worth of each member and that member's spouse and minor children shall not exceed the designated amount.

q. *"Mortgage"* means a mortgage, mortgage deed, deed of trust, or other instrument creating a first lien, subject only to title exceptions and encumbrances acceptable to the authority, including any other mortgage liens of equal standing with or subordinate to the mortgage loan retained by a seller or conveyed to a mortgage lender, on a fee interest in agricultural land and agricultural improvements.

r. *"Mortgage lender"* means a bank, trust company, mortgage company, national banking association, life insurance company, any state or federal governmental agency or instrumentality, including without limitation the federal land bank or any of its local associations, or any other financial institution or entity authorized to make mortgage loans or secured loans in this state.

s. *"Mortgage loan"* means a financial obligation secured by a mortgage.

t. *"Net worth"* means a person's total assets minus total liabilities as determined in accordance with generally accepted accounting principles with appropriate exceptions and exemptions reasonably related to an equitable determination of a person's net worth. Assets shall be valued at fair market value.

u. *"Note"* means a bond anticipation note or other obligation or evidence of indebtedness issued by the authority pursuant to this chapter.

v. *"Permanent soil and water conservation practices"* and *"temporary soil and water conservation practices"* have the same meaning as defined in section 161A.42.

w. *"Production item"* includes tools, machinery, or equipment principally used to produce crops or livestock.

x. *"Qualified beginning farmer"* means a beginning farmer who meets the requirements to participate in a beginning farmer tax credit program as provided in section 175.36A.

y. *"Secured loan"* means a financial obligation secured by a chattel mortgage, security agreement or other instrument creating a lien on an interest in depreciable agricultural property.

z. *"State agency"* means any board, commission, department, public officer, or other agency or authority of the state of Iowa.

aa. *"Veteran"* means the same as defined in section 35.1.

2. The authority may establish by rule further definitions applicable to this chapter and clarification of the definitions in this section, as necessary to assure eligibility for funds, insurance or guarantees available under federal laws and to carry out the public purposes of this chapter.

[C81, §175.2; 81 Acts, ch 68, §2; 82 Acts, ch 1243, §2]

83 Acts, ch 93, §1; 84 Acts, ch 1305, §23; 85 Acts, ch 15, §1, 2; 86 Acts, ch 1026, §1, 2; 86 Acts, ch 1027, §1; 86 Acts, ch 1245, §628; 87 Acts, ch 52, §1; 87 Acts, ch 169, §1; 94 Acts, ch 1118, §1 – 3; 2000 Acts, ch 1010, §1, 2; 2006 Acts, ch 1161, §1, 7; 2008 Acts, ch 1191, §51; 2012 Acts, ch 1017, §45; 2013 Acts, ch 100, §7, 8, 17; 2013 Acts, ch 125, §2, 23, 24

Referred to in §456A.38, 654.16, 654.16A

[SP] For future repeal of subsection 1, paragraphs h, w, x, and aa, effective December 31, 2017, see 2013 Acts, ch 125, §25, 28

[SP] Subsection 1, paragraphs h, w, x, and aa, take effect June 17, 2013, and apply retroactively to January 1, 2013, for tax years beginning on or after that date; 2013 Acts, ch 125, §23, 24

[T] Subsection 1, paragraph e amended

[T] Subsection 1, NEW paragraphs h and i, and former paragraphs h – j redesignated as j – l

[T] Subsection 1, NEW paragraph m and former paragraphs k – s redesignated as n – v

[T] Subsection 1, NEW paragraphs w and x and former paragraphs t and u redesignated as y and z

[T] Subsection 1, NEW paragraph aa

175.3 Agricultural development board.

1. The powers of the agricultural development division, created within the Iowa finance authority under section 16.221, are vested in and shall be exercised by the agricultural development board as provided in section 16.221 and this section.

2. The agricultural development board is created to exercise all powers and perform all duties necessary to administer this chapter according to policies established by the Iowa finance authority. The authority shall establish policies and practices for the division and oversee its operations. The authority may review or approve decisions affecting the division or administration of this chapter, including decisions of the agricultural development board.

3. The agricultural development board consists of five members appointed by the governor. The executive director of the Iowa finance authority or the executive director's designee shall serve as an ex officio nonvoting member.

4. The appointed members of the agricultural development board shall be appointed and retain office as follows:

a. Not more than three members shall belong to the same political party.

b. As far as possible, the governor shall include within the membership persons who represent financial institutions experienced in agricultural lending, real estate sales, farmers, beginning farmers, average taxpayers, local government, soil and water conservation district officials, agricultural educators, and other persons specially interested in family farm development.

c. Members shall serve for staggered terms of six years beginning and ending as provided in section 69.19. A person appointed to fill a vacancy shall serve only for the unexpired portion of the member's term. A member is eligible for reappointment. An appointed member may be removed from office by the governor for misfeasance, malfeasance, willful neglect of duty, or other just cause, after notice and hearing, unless the notice and hearing is expressly waived in writing.

5. The agricultural development board shall conduct business according to all of the following:

a. Three appointed members constitute a quorum and the affirmative vote of a majority of the appointed members is necessary for any substantive action taken by the board. A majority of appointed members shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the board.

b. Meetings of the board shall be held at the call of the chairperson or whenever two appointed members so request.

c. The appointed members shall elect a chairperson and vice chairperson annually, and other officers as they determine. The executive director of the Iowa finance authority or the executive director's designee shall serve as secretary to the board.

6. An appointed member of the agricultural development board is entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties as a member, and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as a member.

7. An appointed member of the agricultural development board shall give bond as required for public officers in chapter 64.

[C81, §175.3; 82 Acts, ch 1243, §3]

83 Acts, ch 101, §32; 85 Acts, ch 15, §3; 86 Acts, ch 1026, §3; 86 Acts, ch 1027, §2; 86 Acts, ch 1245, §629; 87 Acts, ch 23, §4; 90 Acts, ch 1256, §34; 96 Acts, ch 1029, §1; 2003 Acts, ch 137, §2; 2007 Acts, ch 215, §89, 90; 2011 Acts, ch 13, §1; 2011 Acts, ch 131, §55, 158; 2013 Acts, ch 100, §9, 17

Referred to in §16.221, 175.2

[T] Section stricken and rewritten

175.4 Legislative findings.

The general assembly finds and declares as follows:

1. The establishment of the authority is in all respects for the benefit of the people of the state of Iowa, for the improvement of their health and welfare and for the promotion of the economy, which are public purposes.

2. The authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter.

3. There exists a serious problem in this state regarding the ability of nonestablished farmers to acquire agricultural land and agricultural improvements and depreciable agricultural property in order to enter farming.

4. This barrier to entry into farming is conducive to consolidation of acreage of agricultural land with fewer individuals resulting in a grave threat to the traditional family farm.

5. These conditions result in a loss in population, unemployment and a movement of persons from rural communities to urban areas accompanied by added costs to communities for creation of new public facilities and services.

6. One major cause of this condition has been recurrent shortages of funds in private channels and the high interest cost of borrowing.

7. These shortages and costs have made the sale and purchase of agricultural land to beginning farmers a virtual impossibility in many parts of the state.

8. The ordinary operations of private enterprise have not in the past corrected these conditions.

9. A stable supply of adequate funds for agricultural financing is required to encourage beginning farmers in an orderly and sustained manner and to reduce the problems described in this section.

10. Article IX, section 3, of the Constitution of the State of Iowa requires that, "The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement," and agricultural improvement and the public good are served by a policy of facilitating access to capital by beginning farmers unable to obtain capital elsewhere in order to preserve, encourage and protect the family farm which has been the economic, political and social backbone of rural Iowa.

11. It is necessary to create an authority to encourage ownership of farms by beginning farmers by providing purchase money loans to beginning farmers who are not able to obtain adequate capital elsewhere to provide such funds and to lower costs through the use of public financing.

12. All of the purposes stated in this section are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned or granted.

13. The erosion of topsoil on agricultural land by wind and water is a serious problem within the state and one which threatens to destroy the natural resource most responsible for Iowa's prosperity.

14. It is necessary to the preservation of the economy and well-being of the state to encourage soil conservation practices by providing loans for permanent soil and water conservation practices on agricultural land within the state and for the acquisition of conservation farm equipment.

15. There exists a serious problem in this state regarding the ability of farmers to obtain affordable operating loans for reasonable and necessary expenses and cash flow requirements of farming.

16. Farming is one of the principal pursuits of the inhabitants of this state. Many other industries and pursuits, in turn, are wholly dependent upon farming.

17. The inability of farmers to obtain affordable operating loans is conducive to a general decline of the economy in this state.

18. A serious problem continues to exist in this state regarding the ability of agricultural producers to obtain, retain, restructure, or service loans or other financing on a reasonable and affordable basis for operating expenses, cash flow requirements, and capital asset acquisition or maintenance.

19. Because the Iowa economy is dependent upon the production and marketing of agricultural produce, the inability of agricultural producers to obtain, retain, restructure, or service loans or other financing on a reasonable and an affordable basis for operating expenses, cash flow requirements, or capital asset acquisition or maintenance contributes to a general decline of the state's economy.

20. The decline in the number of beef cattle production operations is a serious problem within the state, resulting in the conversion of land used for pasture to row crop production, which threatens to destroy a significant part of Iowa's agricultural base and damage the economic viability of the state.

21. It is necessary to create a program in this state to assist agricultural producers who have established or intend to establish beef cattle production operations, to obtain adequate financing, and management assistance and training, and to convert land used for row crop production to pasture.

[C81, §175.4; 82 Acts, ch 1243, §4]

86 Acts, ch 1027, §3; 87 Acts, ch 52, §2; 87 Acts, ch 169, §2; 2013 Acts, ch 100, §10, 17; 2013 Acts, ch 125, §3, 23, 24

[SP] 2013 amendment striking former subsection 18 takes effect June 17, 2013, and applies retroactively to January 1, 2013, for tax years beginning on or after that date; 2013 Acts, ch 125, §23, 24

[T] Subsection 11 amended

[T] Subsection 18 stricken and former subsections 19 – 22 renumbered as 18 – 21

175.5 Guiding principles.

In the performance of its duties, implementation of its powers, selection of specific programs and projects to receive its assistance under this chapter, the authority shall be guided by the following principles:

1. The authority shall not become an owner of real or depreciable property, except on a temporary basis where necessary in order to implement its programs, to protect its investments by means of foreclosure or other means, or to facilitate transfer of real or depreciable property for the use of beginning farmers.

2. The authority shall exercise diligence and care in selection of projects to receive its assistance and shall apply customary and acceptable business and lending standards in selection and subsequent implementation of the projects. The authority may delegate primary responsibility for determination and implementation of the projects to any federal governmental agency which assumes any obligation to repay the loan, either directly or by insurance or guarantee.

3. The authority shall establish a beginning farmer loan program to aid beginning farmers in the acquisition of agricultural land and improvements and depreciable agricultural property.

4. The authority shall develop programs for providing financial assistance to agricultural producers in this state.

[C81, §175.5]

86 Acts, ch 1026, §4; 2013 Acts, ch 100, §11, 17

[T] Unnumbered paragraph 1 amended

175.6 General powers.

The authority has all of the general powers needed to carry out its purposes and duties, and to exercise its specific powers under this chapter including but not limited to the power to do any of the following:

1. Issue its negotiable bonds and notes as provided in this chapter in order to finance its programs.

2. Sue and be sued in its own name.

3. Have and alter a corporate seal.

4. Make and alter bylaws for its management consistent with the provisions of this chapter.

5. Make and execute agreements, contracts, and other instruments with any public or private entity, including but not limited to any federal governmental agency or instrumentality. The authority may make and execute contracts with any firm of independent certified public accountants to prepare an annual report on behalf of the authority. The authority may make and execute contracts with mortgage lenders for the servicing of mortgage and secured loans. All political subdivisions, other public agencies and state agencies may enter into contracts and otherwise cooperate with the authority.

6. Acquire, hold, improve, mortgage, lease and dispose of real and personal property, including but not limited to the power to sell at public or private sale, with or without public bidding, any property, mortgage or secured loan or other obligation held by it.

7. Procure insurance against any loss in connection with its operations and property interests, including pool insurance on any group of mortgage or secured loans.

8. Fix and collect fees and charges for its services.

9. Subject to an agreement with bondholders or noteholders, invest or deposit moneys of the authority in a manner determined by the authority, notwithstanding chapter 12B or 12C.

10. Accept appropriations, gifts, grants, loans, or other aid from public or private entities. A record of all gifts or grants, stating the type, amount and donor, shall be clearly set out in the authority's annual report along with the record of other receipts.

11. Provide to public and private entities technical assistance and counseling related to the authority's purposes.

12. In cooperation with other local, state or federal governmental agencies or instrumentalities, conduct studies of beginning farmer or agricultural producer agricultural needs, and gather and compile data useful to facilitate decision making.

13. Contract with architects, engineers, attorneys, accountants, housing construction and finance experts, and other advisors or enter into contracts or agreements for such services with local, state or federal governmental agencies.

14. Make, alter and repeal rules consistent with the provisions of this chapter, and subject to chapter 17A.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, §234.18; C81, §175.6]

84 Acts, ch 1230, §1; 87 Acts, ch 52, §3; 2012 Acts, ch 1023, §157; 2013 Acts, ch 100, §12, 17

Referred to in §175.13A

[T] Unnumbered paragraph 1 amended

175.7 Executive director — staff. Repealed by 2013 Acts, ch 100, § 16, 17.

175.8 Annual report.

1. As part of the authority's report required in section 16.7, the authority shall detail its activities under this chapter, which shall include all of the following:

a. Its operations and accomplishments.

b. Its receipts and expenditures during the fiscal year, in accordance with the classifications it establishes for its operating and capital accounts.

c. Its assets and liabilities at the end of its fiscal year and the status of reserve, special and other funds.

d. A schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and issued during its fiscal year.

e. A statement of its proposed and projected activities.

f. Recommendations to the general assembly, as it deems necessary.

g. An analysis of beginning farmer needs in the state.

2. *a.* The annual report shall include all of the following:

(1) Performance goals of the authority. The report shall clearly indicate the extent of progress during the reporting period in attaining the goals.

(2) An evaluation of the success of its programs, with a special emphasis on the beginning farmer loan program as provided in section 175.12, and the beginning farmer tax credit program.

b. Where possible, the findings and results of its performance goals and evaluation shall be expressed in terms of number of loans, tax credits, participating qualified beginning farmers, and acres of agricultural land, including by county.

3. The executive director shall report semiannually to the general assembly's standing committees on government oversight regarding the operations of the authority.

[C81, §175.8]

2007 Acts, ch 215, §92; 2009 Acts, ch 117, §1; 2010 Acts, ch 1069, §23; 2013 Acts, ch 100, §13, 14, 17; 2013 Acts, ch 125, §4, 5, 23, 24

[SP] For future repeal of 2013 amendment to subsection 2 effective December 31, 2017, see 2013 Acts, ch 125, §25, 28

[SP] 2013 amendment to subsection 2 takes effect June 17, 2013, and applies retroactively to January 1, 2013, for tax years beginning on or after that date; 2013 Acts, ch 125, §23, 24

[T] With respect to amendment to subsection 1, unnumbered paragraph 1 by 2013 Acts, ch 125, §4, see Code editor's note

[T] Section amended

175.9 Nondiscrimination.

1. The opportunity to acquire agricultural land and agricultural improvements and depreciable agricultural property financed or otherwise assisted by the authority, directly or indirectly, is open to all persons regardless of race, creed, color, sex, national origin, age, physical or mental impairment, or religion.

2. The authority shall promote marketing plans for its programs under this chapter.

[C81, §175.9]

175.10 Surplus moneys.

Moneys declared by the authority to be surplus moneys which are not required to service bonds and notes, to pay administrative expenses of the authority or to accumulate necessary operating or loss reserves, shall be used by the authority to provide loans, grants, subsidies, and other services or assistance to beginning farmers or agricultural producers through any of the programs authorized in this chapter.

[C81, §175.10]

87 Acts, ch 52, §4

175.11 Combination programs.

Programs authorized in this chapter may be combined with any other programs authorized in this chapter, under chapter 16 or under a federal program in order to facilitate as far as practicable the acquisition of agricultural land and property by beginning farmers or to facilitate the implementation of permanent soil and water conservation practices and the acquisition of conservation farm equipment.

[C81, §175.11; 82 Acts, ch 1243, §5]

175.12 Beginning farmer program.

1. The authority shall develop a beginning farmer loan program to facilitate the acquisition of agricultural land and improvements and depreciable agricultural property by beginning farmers. The authority shall exercise the powers granted to it in this chapter in order to fulfill the goal of providing financial assistance to beginning farmers in the acquisition of agricultural land and agricultural improvements and depreciable agricultural property. The authority may participate in and cooperate with programs of the United States department of agriculture consolidated farm service agency, federal land bank or any other agency or instrumentality of the federal government or with any program of any other state agency in the administration of the beginning farmer loan program and in the making or purchasing of mortgage or secured loans pursuant to this chapter.

2. The authority may participate in any federal programs designed to assist beginning farmers or in any related federal or state programs.

3. The authority shall provide in a beginning farmer loan program that a mortgage or secured loan to or on behalf of a beginning farmer shall be provided only if the following criteria are satisfied:

a. The beginning farmer is a resident of the state. If the beginning farmer is a partnership, all partners shall be residents of the state. If a beginning farmer is a family farm corporation, all shareholders shall be residents of the state. If the beginning farmer is a family farm limited liability company, all members shall be residents of the state.

b. The agricultural land and agricultural improvements or depreciable agricultural property the beginning farmer proposes to purchase will be located in the state.

c. The beginning farmer has sufficient education, training, or experience in the type of farming for which the beginning farmer requests the mortgage or secured loan. If the beginning farmer is a partnership, all partners shall have sufficient education, training, or experience in the type of farming for which the beginning farmer requests the mortgage or secured loan. If the beginning farmer is a family farm corporation, all shareholders who are not minors shall have sufficient education, training, or experience in the type of farming for which the beginning farmer requests the mortgage or secured loan. If the beginning farmer is a family farm limited liability company, all members who are not minors shall have sufficient education, training, or experience in the type of farming for which the beginning farmer requests the mortgage or secured loan.

d. A loan to a beginning farmer for the acquisition of agricultural land and agricultural improvements does not exceed five hundred thousand dollars. A loan to a beginning farmer for the acquisition of depreciable agricultural property does not exceed one hundred twenty-five thousand dollars.

e. If the loan is for the acquisition of agricultural land, the beginning farmer has or will have access to adequate working capital, farm equipment, machinery or livestock. If the loan is for the acquisition of depreciable agricultural property, the beginning farmer has or will have access to adequate working capital or agricultural land.

f. The beginning farmer shall materially and substantially participate in farming. If the beginning farmer is a partnership, family farm corporation, or family farm limited liability company, each partner, shareholder, or member shall materially and substantially participate in farming.

g. If the beginning farmer is an individual, the agricultural land and agricultural improvements shall only be used for farming by the individual, the individual's spouse, or the individual's minor children. If the beginning farmer is a partnership, family farm corporation, or family farm limited liability company, the agricultural land and agricultural improvements shall only be used for farming by any or all of the partners, shareholders, or members, including their spouses and minor children.

h. The beginning farmer has not previously received financing under the program for the acquisition of property similar in nature to the property for which the loan is sought. However, this restriction shall not apply if the amount previously received plus the amount of the loan sought does not exceed five hundred thousand dollars in the case of agricultural land and improvements or one hundred twenty-five thousand dollars in the case of depreciable agricultural property.

i. Other criteria as the authority prescribes by rule.

4. The authority may provide in a mortgage or secured loan made or purchased pursuant to this chapter that the loan may not be assumed or any interest in the agricultural land or improvements or depreciable agricultural property may not be leased, sold or otherwise conveyed without its prior written consent and may provide a due-on-sale clause with respect to the occurrence of any of the foregoing events without its prior written consent. The authority may provide by rule the grounds for permitted assumptions of a mortgage or for the leasing, sale or other conveyance of any interest in the agricultural land or improvements. However, the authority shall provide and state in a mortgage or secured loan that the authority has the power to raise the interest rate of the loan to the prevailing market rate if the mortgage or secured loan is assumed by a farmer who is already established in that field at the time of the assumption of the loan. This provision controls with respect to a mortgage loan made or purchased pursuant to this chapter notwithstanding the provisions of chapter 535.

5. The authority may participate in any interest in any mortgage or secured loan made or purchased pursuant to this chapter with a mortgage lender. The participation interest may be on a parity with the interest in the mortgage or secured loan retained by the authority, equally and ratably secured by the mortgage or securing agreement securing the mortgage or secured loan.

[C81, §175.12; 81 Acts, ch 68, §3, 4]

85 Acts, ch 15, §4, 5; 94 Acts, ch 1118, §4 – 7; 95 Acts, ch 216, §25

Referred to in §16.221, 159.18, 175.8, 175.17, 175.34, 456A.38

175.13 Loans to beginning farmers.

1. The authority may make mortgage or secured loans, including but not limited to mortgage or secured loans insured, guaranteed, or otherwise secured by the federal government or a federal governmental agency or instrumentality, a state agency or private mortgage insurers, to beginning farmers to provide financing for agricultural land and agricultural improvements or depreciable agricultural property.

2. Mortgage or secured loans shall contain terms and provisions, including interest rates, and be in a form established by rules of the authority. The authority may require the beginning farmer to execute a note, loan agreement or other evidence of indebtedness and furnish additional assurances and guarantees, including insurance, reasonably related to protecting the security of the mortgage or secured loan, as the authority deems necessary.

[C81, §175.13]

Referred to in §175.34

175.13A Financial assistance for agricultural producers.

1. In addition to the other programs authorized pursuant to this chapter, the authority is authorized to provide any type of economic assistance directly or indirectly to agricultural producers, and may develop and implement programs including but not limited to the making of loan guarantees, interest buy-downs, grants, secured or unsecured direct loans, secondary

market purchases of loans or mortgages, loans to mortgage lenders, lending institutions, other agricultural lenders as designated by rule of the authority, or entities that provide funds or credits to such lenders or institutions, to assist agricultural producers within the state. The authority may exercise any of the powers granted to it in this chapter in order to fulfill the goal of providing financial assistance to agricultural producers. The authority may participate in and cooperate with programs of any agency or instrumentality of the federal government or with programs of any other state agency in the administration of the programs to provide economic assistance to agricultural producers.

2. The authority shall provide in any program developed and implemented pursuant to this section that assistance shall be provided only if the following criteria are satisfied:

a. The agricultural producer is a resident of the state.

b. The agricultural producer's land and farm operations are located within the state.

c. Based upon the agricultural producer's net worth, cash flow, debt-to-asset ratio, and other criteria as prescribed by rule of the authority, the authority determines that without such assistance the agricultural producer could not reasonably be expected to be able to obtain, retain, restructure, or service loans or other financing for operating expenses, cash flow requirements, or capital acquisition and maintenance upon a reasonable and affordable basis.

d. Other criteria as the authority prescribes by rule.

3. The authority is granted all powers which are necessary or useful to develop and implement programs and authorizations pursuant to subsection 1. These powers include, but are not limited to:

a. All general powers stated in section 175.6.

b. The power to make or enter into or to require the making or entry into of agreements of any type, with or by any person, that are necessary to effect the purposes of this section. These agreements may include but are not limited to contracts, notes, bonds, guarantees, mortgages, loan agreements, trust indentures, reimbursement agreements, letters of credit or other liquidity or credit enhancement agreements, reserve agreements, loan or mortgage purchase agreements, buy-down agreements, grants, collateral or security agreements, insurance contracts, or other similar documents. The agreements may contain any terms and conditions which the authority determines are reasonably necessary or useful to implement the purposes of this section or which are usually included in agreements or documents between private or public persons in similar transactions.

c. The power to issue its bonds or notes and expend or commit moneys for the purposes set forth in subsection 1. The authority may provide in the documents authorizing its bonds or notes that their principal and interest shall be limited obligations payable solely out of the revenues derived from a specific program or source and do not constitute an indebtedness of the authority or a charge against the authority's general credit or general fund. Alternatively, the authority may provide that the principal and interest of specified bonds or notes do constitute an indebtedness of the authority and a charge against the authority's general credit or general fund.

d. The power to participate in any federal or other state program designed to assist agricultural producers or in related federal or state programs.

e. The power to require submission of evidence satisfactory to the authority of the receipt by an agricultural producer of the assistance intended under a program developed and implemented pursuant to this section. In that connection, the authority, through its members, employees or agents, may inspect the books and records of any person receiving or involved in the provision of assistance in accordance with this section.

f. The power to establish by rule appropriate enforcement provisions in order to assure compliance with this section and rules adopted pursuant to this section, to seek the enforcement of such rules and the terms of any agreement or document by decree of any court of competent jurisdiction, and to require as a condition of providing assistance pursuant to this section the consent of any person receiving or involved in the provision of the assistance to the jurisdiction of the courts of this state over any enforcement proceeding.

g. The power to require, as a condition of the provision of assistance pursuant to this section, any representations and warranties on the part of any person receiving or involved in providing such assistance that the authority determines are reasonably necessary or useful to carry out the purposes of this section. A person receiving or involved in providing assistance pursuant to this section is liable to the authority for damages suffered by the authority by reason of a misrepresentation or the breach of a warranty.

4. All persons, public and private, are authorized to cooperate with the authority and to participate in the programs developed and implemented pursuant to this section and in accordance with the rules of the authority.

5. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 175.19, subsection 4, apply to bonds or notes issued pursuant to powers granted to the authority under this section, to reserve funds, to appropriations, and to the remedies of bondholders and noteholders except to the extent that they are inconsistent with this section.

86 Acts, ch 1026, §5; 87 Acts, ch 52, §5

Referred to in §175.34

175.14 Loans to mortgage lenders.

1. The authority may make and contract to make loans to mortgage lenders on terms and conditions it determines are reasonably related to protecting the security of the authority's investment and to implementing the purposes of this chapter. Mortgage lenders are authorized to borrow from the authority in accordance with the provisions of this section and the rules of the authority.

2. The authority shall require as a condition of each loan to a mortgage lender that the mortgage lender, within a reasonable period after receipt of the loan proceeds as the authority prescribes by rule, shall have entered into written commitments to make and, within a reasonable period thereafter as the authority prescribes by rule, shall have disbursed the loan proceeds in new mortgage or secured loans to beginning farmers in an aggregate principal amount of not less than the amount of the loan. New mortgage or secured loans shall have terms and conditions as the authority prescribes by rules which are reasonably related to implementing the purposes of this chapter.

3. The authority shall require the submission to it by each mortgage lender to which the authority has made a loan, of evidence satisfactory to the authority of the making of new mortgage or secured loans to beginning farmers as required by this section and in that connection may, through its members, employees or agents, inspect the books and records of a mortgage lender.

4. Compliance by a mortgage lender with the terms of its agreement with the authority with respect to the making of new mortgage or secured loans to beginning farmers may be enforced by decree of any district court of this state. The authority may require as a condition of a loan to a national banking association or a federally chartered savings and loan association, the consent of the association to the jurisdiction of courts of this state over any enforcement proceeding. The authority may also require, as a condition of a loan to a mortgage lender, agreement by the mortgage lender to the payment of penalties to the authority for violation by the mortgage lender of its agreement with the authority, and the penalties shall be recoverable at the suit of the authority.

5. The authority shall require that each mortgage lender receiving a loan pursuant to this section shall issue and deliver to the authority evidence of its indebtedness to the authority which shall constitute a general obligation of the mortgage lender and shall bear a date, mature at a time, be subject to prepayment and contain other provisions consistent with this section and reasonably related to protecting the security of the authority's investment, as the authority determines.

6. Notwithstanding any other provision of this section, the interest rate and other terms of loans to mortgage lenders made from the proceeds of an issue of bonds or notes of the authority shall be at least sufficient to assure the payment of the bonds or notes and the interest on them as they become due.

7. The authority may require that loans to mortgage lenders are additionally secured as to payment of both principal and interest by a pledge of and lien upon collateral security by special escrow funds or other forms of guarantee and in amounts and forms as the authority

by resolution determines to be necessary to assure the payment of the loans and the interest as they become due. Collateral security shall consist of direct obligations of or obligations guaranteed by the United States or one of its agencies, obligations satisfactory to the authority which are issued by other federal agencies, direct obligations of or obligations guaranteed by a state or a political subdivision of a state or investment quality obligations approved by the authority.

8. The authority may require that collateral for loans be deposited with a bank, trust company or other financial institution acceptable to the authority located in this state and designated by the authority as custodian. In the absence of that requirement, each mortgage lender shall enter into an agreement with the authority containing provisions the authority deems necessary to adequately identify and maintain the collateral, service the collateral and require the mortgage lender to hold the collateral as an agent for the authority and be accountable to the authority as the trustee of an express trust for the application and disposition of the collateral and the income from it. The authority may also establish additional requirements it deems necessary with respect to the pledging, assigning, setting aside or holding of collateral and the making of substitutions for it or additions to it and the disposition of income and receipts from it.

9. The authority may require as a condition of loans to mortgage lenders any representations and warranties it determines are necessary to secure the loans and carry out the purposes of this section.

10. The authority may require the beginning farmer to satisfy conditions and requirements normally imposed by mortgage lenders in making similar loans, including but not limited to, the purchase of capital stock in the federal land bank.

11. If a provision of this section is inconsistent with a provision of law of this state governing mortgage lenders, the provision of this section controls for the purposes of this section.

[C81, §175.14]

Referred to in §175.27, 175.34

175.15 Purchase of loans.

1. The authority may purchase and make advance commitments to purchase mortgage or secured loans from mortgage lenders at prices and upon terms and conditions as it determines. However, the total purchase price for all mortgage or secured loans which the authority commits to purchase from a mortgage lender at any one time shall not exceed the total of the unpaid principal balances of the mortgage or secured loans purchased. Mortgage lenders are authorized to sell mortgage or secured loans to the authority in accordance with the provisions of this section and the rules of the authority.

2. The authority shall require as a condition of purchase of mortgage or secured loans from mortgage lenders that the mortgage lenders certify that the mortgage or secured loans purchased are loans made to beginning farmers. Mortgage or secured loans to be made by mortgage lenders shall have terms and conditions as the authority prescribes by rule. The authority may make a commitment to purchase mortgage or secured loans from mortgage lenders in advance of the time the loans are made by mortgage lenders. The authority shall require as a condition of a commitment that mortgage lenders certify in writing that all mortgage or secured loans represented by the commitment will be made to beginning farmers and that the mortgage lender will comply with other authority specifications.

3. The authority shall require the submission to it by each mortgage lender from which the authority has purchased loans of evidence satisfactory to the authority of the making of mortgage or secured loans to beginning farmers as required by this section and in that connection may, through its members, employees or agents, inspect the books and records of a mortgage lender.

4. Compliance by a mortgage lender with the terms of its agreement with the authority with respect to the making of mortgage or secured loans to beginning farmers may be enforced by decree of any district court of this state. The authority may require as a condition of purchase of mortgage or secured loans from any national banking association or federally chartered savings and loan association the consent of the association to the

jurisdiction of courts of this state over any enforcement proceeding. The authority may also require as a condition of the purchase of mortgage or secured loans from a mortgage lender agreement by the mortgage lender to the payment of penalties to the authority for violation by the mortgage lender of its agreement with the authority and the penalties shall be recoverable at the suit of the authority.

5. The authority may require as a condition of purchase of a mortgage or secured loan from a mortgage lender that the mortgage lender make representations and warranties the authority requires. A mortgage lender is liable to the authority for damages suffered by the authority by reason of the untruth of a representation or the breach of a warranty and, in the event that a representation proves to be untrue when made or in the event of a breach of warranty, the mortgage lender shall, at the option of the authority, repurchase the mortgage or secured loan for the original purchase price adjusted for amounts subsequently paid on it, as the authority determines.

6. The authority shall require the recording of an assignment of a mortgage loan purchased by it from a mortgage lender and is not required to notify the mortgagor of its purchase of the mortgage loan. The authority is not required to inspect or take possession of the mortgage documents if the mortgage lender from which the mortgage loan is purchased enters into a contract to service the mortgage loan and account to the authority for it.

7. If a provision of this section is inconsistent with another provision of law of this state governing mortgage lenders, the provision of this section controls for the purposes of this section.

[C81, §175.15]

Referred to in §175.27, 175.34

175.16 Powers relating to loans.

Subject to any agreement with bondholders or noteholders, the authority may renegotiate a mortgage or secured loan or a loan to a mortgage lender in default, waive a default or consent to the modification of the terms of a mortgage or secured loan or a loan to a mortgage lender, forgive or forbear all or part of a mortgage or secured loan or a loan to a mortgage lender and commence, prosecute and enforce a judgment in any action, including but not limited to a foreclosure action, to protect or enforce any right conferred upon it by law, mortgage or secured loan agreement, contract or other agreement and in connection with any action, bid for and purchase the property or acquire or take possession of it, complete, administer, pay the principal of and interest on any obligations incurred in connection with the property and dispose of and otherwise deal with the property in a manner the authority deems advisable to protect its interests.

[C81, §175.16]

175.17 Bonds and notes.

1. The authority may issue its negotiable bonds and notes in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code, chapter 554.

2. Bonds and notes are payable solely and only out of the moneys, assets or revenues of the authority and as provided in the agreement with bondholders or noteholders pledging any particular moneys, assets or revenues. Bonds or notes are not an obligation of this state or any political subdivision of this state other than the authority within the meaning of any constitutional or statutory debt limitations, but are special obligations of the authority payable solely and only from the sources provided in this chapter, and the authority shall not pledge the credit or taxing power of this state or any political subdivision of this state other than the authority or make its debts payable out of any moneys except those of the authority.

3. Bonds and notes must be authorized by a resolution of the authority. However, a resolution authorizing the issuance of bonds or notes may delegate to an officer of the

authority the power to negotiate and fix the details of an issue of bonds or notes by an appropriate certificate of the authorized officer.

4. Bonds shall:

a. State the date and series of the issue, be consecutively numbered and state on their face that they are payable both as to principal and interest solely out of the assets of the authority and do not constitute an indebtedness of this state or any political subdivision of this state other than the authority within the meaning of any constitutional or statutory debt limit.

b. Be either registered, registered as to principal only, or in coupon form, issued in denominations as the authority prescribes, fully negotiable instruments under the laws of this state, signed on behalf of the authority with the manual or facsimile signature of the chairperson or vice chairperson, attested by the manual or facsimile signature of the secretary, have impressed or imprinted thereon the seal of the authority or a facsimile of it, and the coupons attached shall be signed with the facsimile signature of the chairperson or vice chairperson, be payable as to interest at rates and at times as the authority determines, be payable as to principal at times over a period not to exceed fifty years from the date of issuance, at places and with reserved rights of prior redemption, as the authority prescribes, be sold at prices, at public or private sale, and in a manner as the authority prescribes, and the authority may pay all expenses, premiums and commissions which it deems necessary or advantageous in connection with the issuance and sale, and be issued under and subject to the terms, conditions and covenants providing for the payment of the principal, redemption premiums, if any, interest and other terms, conditions, covenants and protective provisions safeguarding payment, not inconsistent with this chapter, as are found to be necessary by the authority for the most advantageous sale, which may include but are not limited to covenants with the holders of the bonds as to those matters set forth in section 16.26, subsection 4, paragraph *"b"*.

5. The authority may issue its bonds for the purpose of refunding any bonds or notes of the authority then outstanding, including the payment of any redemption premiums and any interest accrued or to accrue to the date of redemption of the outstanding bonds or notes. Until the proceeds of bonds issued for the purpose of refunding outstanding bonds or notes are applied to the purchase or retirement of outstanding bonds or notes or the redemption of outstanding bonds or notes, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of this chapter. The interest, income and profits earned or realized on an investment may also be applied to the payment of the outstanding bonds or notes to be refunded by purchase, retirement or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments may be returned to the authority for use by it in any lawful manner. All refunding bonds shall be issued and secured and subject to the provisions of this chapter in the same manner and to the same extent as other bonds.

6. The authority may issue negotiable bond anticipation notes and may renew them from time to time but the maximum maturity of the notes, including renewals, shall not exceed ten years from the date of issue of the original notes. Notes are payable from any available moneys of the authority not otherwise pledged or from the proceeds of the sale of bonds in anticipation of which the notes were issued. Notes may be issued for any corporate purpose of the authority. Notes shall be issued in the same manner as bonds and notes and the resolution authorizing them may contain any provisions, conditions or limitations, not inconsistent with the provisions of this subsection, which the bonds or a bond resolution of the authority may contain. Notes may be sold at public or private sale. In case of default on its notes or violation of any obligations of the authority to the noteholders, the noteholders shall have all the remedies provided in this chapter for bondholders. Notes shall be as fully negotiable as bonds of the authority.

7. A copy of each pledge agreement by or to the authority, including without limitation each bond resolution, indenture of trust or similar agreement, or any revisions or supplements to it shall be filed with the secretary of state and no further filing or other action under article 9 of the uniform commercial code as provided in chapter 554, or any other law of the state shall be required to perfect the security interest in the collateral or any additions to it or substitutions for it and the lien and trust so created shall be binding from and after the time

made against all parties having claims of any kind in tort, contract or otherwise against the pledgor.

8. Members of the authority and any person executing its bonds, notes or other obligations are not liable personally on the bonds, notes or other obligations or subject to personal liability or accountability by reason of the issuance of the authority's bonds or notes.

9. The authority shall publish a notice of intention to issue bonds or notes in a newspaper published and of general circulation in the state. The notice shall include a statement of the maximum amount of bonds or notes proposed to be issued, and in general, what net revenues will be pledged to pay the bonds or notes and interest thereon. An action shall not be brought questioning the legality of the bonds or notes or the power of the authority to issue the bonds or notes or to the legality of any proceedings in connection with the authorization or issuance of the bonds or notes after sixty days from the date of publication of the notice.

10. Bonds and notes issued by the authority for purposes of financing the beginning farmer loan program provided in section 175.12 are exempt from taxation by the state, and interest earned on the bonds and notes is deductible in determining net income for purposes of the state individual and corporate income tax under divisions II and III of chapter 422.

[C81, §175.17]

87 Acts, ch 52, §6; 89 Acts, ch 175, §1; 2005 Acts, ch 3, §45

Referred to in §175.33, 175.34, 422.7

175.18 Reserve funds and appropriations.

1. The authority may create and establish one or more special funds, each to be known as a "bond reserve fund" and shall pay into each bond reserve fund any moneys appropriated and made available by the state for the purpose of the fund, any proceeds of sale of notes or bonds to the extent provided in the resolutions of the authority authorizing their issuance and any other moneys which are available to the authority for the purpose of the fund from any other sources. Moneys held in a bond reserve fund, except as otherwise provided in this chapter, shall be used as required solely for the payment of the principal of bonds secured in whole or in part by the fund or of the sinking fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds or the payments of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

2. Moneys in a bond reserve fund shall not be withdrawn from it in an amount that will reduce the amount of the fund to less than the bond reserve fund requirement established for the fund, as provided in this section, except for the purpose of making payment when due of principal, interest, redemption premiums and the sinking fund payments with respect to the bonds for the payment of which other moneys of the authority are not available. Any income or interest earned by, or incremental to, a bond reserve fund due to the investment of it may be transferred by the authority to other funds or accounts of the authority to the extent the transfer does not reduce the amount of that bond reserve fund below the bond reserve fund requirement for it.

3. The authority shall not at any time issue bonds, secured in whole or in part by a bond reserve fund if, upon the issuance of the bonds, the amount in the bond reserve fund will be less than the bond reserve fund requirement for the fund, unless the authority at the time of issuance of the bonds deposits in the fund from the proceeds of the bonds issued or from other sources an amount which, together with the amount then in the fund will not be less than the bond reserve fund requirement for the fund. For the purposes of this section, the term *"bond reserve fund requirement"* means, as of any particular date of computation, an amount of money, as provided in the resolutions of the authority authorizing the bonds with respect to which the fund is established, equal to not more than ten percent of the outstanding principal amount of bonds secured by the fund.

4. To assure the continued operation and solvency of the authority for the carrying out of its corporate purposes, provision is made in subsection 1 for the accumulation in each bond reserve fund of an amount equal to the bond reserve fund requirement for the fund. In order further to assure maintenance of the bond reserve funds, the chairperson of the authority shall, on or before July 1 of each calendar year, make and deliver to the governor a certificate stating the sum, if any, required to restore each bond reserve fund to its bond reserve fund

requirement. Within thirty days after the beginning of the session of the general assembly next following the delivery of the certificate, the governor may submit to both houses printed copies of a budget including any sum required to restore each bond reserve fund to its bond reserve fund requirement. Sums appropriated by the general assembly and paid to the authority pursuant to this section shall be deposited by the authority in the applicable bond reserve fund.

5. Amounts paid over to the authority by the state pursuant to the provisions of this section shall constitute and be accounted for as advances by the state to the authority and, subject to the rights of the holders of any bonds or notes of the authority, shall be repaid to the state without interest from all available operating revenues of the authority in excess of amounts required for the payment of bonds, notes or obligations of the authority, the bond reserve fund and operating expenses.

6. The authority shall cause to be delivered to the legislative fiscal committee within ninety days of the close of its fiscal year its annual report certified by an independent certified public accountant, who may be the accountant or a member of the firm of accountants who regularly audits the books and accounts of the authority selected by the authority. In the event that the principal amount of any bonds or notes deposited in a bond reserve fund is withdrawn for payment of principal or interest thereby reducing the amount of that fund to less than the bond reserve fund requirement, the authority shall immediately notify the general assembly of this event and shall take steps to restore the fund to its bond reserve fund requirement from any amounts available, other than principal of a bond issue, which are not pledged to the payment of other bonds or notes.

[C81, §175.18]

175.19 Remedies of bondholders and noteholders.

1. If the authority defaults in the payment of principal or interest on an issue of bonds or notes at maturity or upon call for redemption and the default continues for a period of thirty days or if the authority fails or refuses to comply with the provisions of this chapter, or defaults in an agreement made with the holders of an issue of bonds or notes, the holders of twenty-five percent in aggregate principal amount of bonds or notes of the issue then outstanding, by instrument filed in the office of the clerk of the county in which the principal office of the authority is located and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of the bonds or notes for the purposes provided in this section.

2. *a.* The authority or any trustee appointed under the indenture under which the bonds are issued may, but upon written request of the holders of twenty-five percent in aggregate principal amount of the issue of bonds or notes then outstanding shall:

(1) Enforce all rights of the bondholders or noteholders including the right to require the authority to carry out its agreements with the holders and to perform its duties under this chapter.

(2) Bring suit upon the bonds or notes.

(3) By action require the authority to account as if it were the trustee of an express trust for the holders.

(4) By action enjoin any acts or things which are unlawful or in violation of the rights of the holders.

(5) Declare all the bonds or notes due and payable and if all defaults are made good then with the consent of the holders of twenty-five percent of the aggregate principal amount of the issue of bonds or notes then outstanding, annul the declaration and its consequences.

b. The bondholders or noteholders may, to the extent provided in the resolution to which the bonds or notes were issued or in its agreement with the authority, enforce any of the remedies in paragraph "*a*", subparagraphs (1) through (5), or the remedies provided in such proceedings or agreements for and on their own behalf.

3. The trustee shall also have all powers necessary or appropriate for the exercise of functions specifically set forth or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

4. Before declaring the principal of bonds or notes due and payable, the trustee shall first

give thirty days' notice in writing to the governor, to the authority and to the attorney general of the state.

5. The district court has jurisdiction of any action by the trustee on behalf of bondholders or noteholders. The venue of the action shall be in the county in which the principal office of the authority is located.

[C81, §175.19; 81 Acts, ch 68, §5]

2008 Acts, ch 1031, §39

Referred to in §175.13A, 175.33, 175.34

175.20 Agreement of the state.

The state pledges and agrees with the holders of any bonds or notes that the state will not limit or alter the rights vested in the authority to fulfill the terms of agreements made with the holders or in any way to impair the rights and remedies of the holders until the bonds or notes together with the interest on them, plus interest on unpaid installments of interest, and all costs and expenses in connection with an action by or on behalf of the holders are fully met and discharged. The authority may include this pledge and agreement of the state in any agreement with the holders of bonds or notes.

[C81, §175.20]

175.21 Bonds and notes as legal investments.

Bonds and notes are securities in which public officers, state departments and agencies, political subdivisions, insurance companies and other persons carrying on an insurance business, banks, trust companies, investment companies and other persons carrying on a banking business, administrators, executors, guardians, conservators, trustees and other fiduciaries and other persons authorized to invest in bonds or other obligations of this state may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also securities which may be deposited with and may be received by public officers, state departments and agencies and political subdivisions for any purpose for which the deposit of bonds or other obligations of this state is authorized.

[C81, §175.21]

2012 Acts, ch 1017, §46

175.22 Moneys of the authority.

1. Moneys of the authority, except as otherwise provided in this chapter, shall be paid to the authority and shall be deposited in a bank or other financial institution designated by the authority. The moneys shall be withdrawn on the order of the person authorized by the authority. Deposits shall be secured in the manner determined by the authority. The auditor of state or the auditor's legally authorized representatives may periodically examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing, and the authority shall not be required to pay a fee for the examination.

2. The authority may contract with holders of its bonds or notes as to the custody, collection, security, investment and payment of moneys of the authority, of moneys held in trust or otherwise for the payment of bonds or notes and to carry out the contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of the moneys may be secured in the same manner as moneys of the authority and banks and trust companies may give security for the deposits.

3. Subject to the provisions of any contract with bondholders or noteholders and to the approval of the director of the department of administrative services, the authority shall prescribe a system of accounts.

4. The authority shall submit to the governor, the auditor of state, the department of management, and the department of administrative services, within thirty days of its receipt, a copy of the report of every external examination of the books and accounts of the authority other than copies of the reports of examinations made by the auditor of state.

[C81, §175.22]

88 Acts, ch 1158, §46; 2003 Acts, ch 145, §286

175.23 Limitation of liability.

Members of the authority and persons acting in its behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties given in this chapter.

[C81, §175.23]

175.24 Assistance by state officers, agencies and departments.

State officers and state departments and agencies may render services to the authority within their respective functions as requested by the authority.

[C81, §175.24]

175.25 Liberal interpretation.

This chapter, being necessary for the welfare of this state and its inhabitants, shall be liberally construed to effect its purposes.

[C81, §175.25]

175.26 Conflicts of interest.

The requirements and procedures for conflicts of interest by a member or employee of the authority set forth in section 16.3A shall also apply to this chapter.

[C81, §175.26]

2013 Acts, ch 100, §15, 17

[T] Section stricken and rewritten

175.27 Exemption from competitive bid laws.

The authority and all contracts made by it in carrying out its public and essential governmental functions under sections 175.14 and 175.15, shall be exempt from the laws of the state which provide for competitive bids in connection with such contracts.

[C81, §175.27]

175.28 Trust assets.

The authority shall make application to and receive from the secretary of agriculture of the United States, or any other proper federal official, pursuant and subject to the provisions of Pub. L. No. 81-499, 64 Stat. 152 (1950), formerly codified at 40 U.S.C. § 440 et seq. (1976), all of the trust assets held by the United States in trust for the Iowa rural rehabilitation corporation now dissolved.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, §234.15; C81, §175.28]

2009 Acts, ch 41, §66

Referred to in §175.30

175.29 Agreements.

The authority may enter into agreements with the secretary of agriculture of the United States pursuant to Pub. L. No. 81-499 § 2(f) (1950) upon terms and conditions and for periods of time as mutually agreeable, authorizing the authority to accept, administer, expend and use in the state of Iowa all or any part of the trust assets or other funds in the state of Iowa which have been appropriated for use in carrying out the purposes of the Bankhead-Jones Farm Tenant Act and to do any and all things necessary to effectuate and carry out the purposes of said agreements.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, §234.16; C81, §175.29]

2009 Acts, ch 41, §67

175.30 Use of assets — insured or guaranteed loans to beginning or displaced farmers.

1. As used in this section:

a. *"Beginning farmer"* includes an individual or partnership with a low or moderate net worth that became engaged in farming on or after January 1, 1982.

b. *"Displaced farmer"* means a person who discontinued farming on or after January 1, 1982, due to foreclosure or voluntary liquidation for financial reasons, and who was actively engaged in farming for at least one year prior to discontinuing farming.

2. The trust assets received under the application made pursuant to section 175.28 other than cash shall be taken on proper transfer or assignment from the department of human services to the authority and administered as provided in this chapter. These funds may be used for any of the purposes of this chapter, including but not limited to costs of administration and insuring or guaranteeing payment of all or a portion of loans made pursuant to this chapter.

3. *a.* Beginning August 11, 1983, the authority shall establish an insurance or guarantee loan program with those funds received pursuant to section 175.28 to the extent those funds were not committed under a program authorized by this chapter on August 11, 1983. This program shall provide for the insuring or guaranteeing of seventy-five percent of the amount of an agricultural loan, not in excess of twenty-five thousand dollars, made to a beginning or displaced farmer to provide operating moneys for farming purposes in this state.

b. The authority shall insure or guarantee only one such loan for each beginning or displaced farmer. The authority shall insure or guarantee a loan for only one year but with the option to extend the insurance or guarantee once for an additional year. The authority shall not insure or guarantee a loan where the ratio of the beginning or displaced farmer's liabilities, excluding the amount of the loan, to assets is greater than three to one.

c. Provision shall be made in the insuring or guaranteeing of a loan that only those funds set aside for this program as provided in this subsection shall be used for the payment of all or a portion of the loan insured or guaranteed. Provision shall also be made that the authority shall pay under its insurance or guarantee seventy-five percent of the actual amount of the default.

d. A mortgage lender which seeks to have a loan of the lender insured or guaranteed under this program shall apply to the authority for the insurance or guarantee pursuant to rules established by the authority for this purpose. This program shall not obligate the state, authority, or other agency except to the extent provided in this subsection.

e. The authority shall define by rule what constitutes a loan made to provide operating moneys which definition shall not include a loan made for acquisition of agricultural land or agricultural improvements, or the refinancing of an existing loan even if made for operating purposes.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, §234.17; C81, §175.30]

83 Acts, ch 96, §157, 159; 83 Acts, ch 109, §1, 2, 3; 86 Acts, ch 1078, §1; 2009 Acts, ch 41, §68

175.31 Programs in progress.

The authority shall complete the administration of programs in progress on July 1, 1980, to the extent that funds were committed, obligations incurred or rights accrued prior to July 1, 1980, under the programs authorized under sections 234.15 to 234.20 prior to the repeal of those sections. Moneys received under this section shall be deposited to the authority.

[C81, §175.31]

175.32 Liability.

The United States, the authority and the secretary of agriculture of the United States shall be held free from liability by virtue of the transfer of the assets to the authority. The authority and persons acting in its behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out their powers and duties under this chapter.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, §234.20; C81, §175.32]

175.33 Additional loan program.

1. The authority may enter into a loan agreement with a beginning farmer to finance in whole or in part the acquisition by construction or purchase of agricultural land, agricultural improvements, or depreciable agricultural property. The repayment obligation of the beginning farmer may be unsecured, or may be secured by a mortgage or security agreement or by other security as the authority deems advisable, and may be evidenced by one or more notes of the beginning farmer. The loan agreement may contain terms and conditions as the authority deems advisable.

2. The authority may issue its bonds and notes for the purposes set forth in subsection 1 and may enter into a lending agreement or purchase agreement with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. Bonds and notes must be authorized by a resolution of the authority. The authority and the bondholders or noteholders may enter into an agreement to provide for any of the following:

a. That the proceeds of the bonds and notes and investments thereon may be received, held, and disbursed by the bondholders or noteholders, or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority, may collect, invest, and apply the amounts payable under the loan agreement or any other security instrument securing the debt obligation of the beginning farmer.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreement or security instrument on their own behalf without the appointment or designation of a trustee and if there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained therein, the payment or performance may be enforced in accordance with the provisions contained therein.

d. That if there is a default in the payment of the principal or interest on a mortgage or security instrument or a violation of an agreement contained in the mortgage or security instrument, the mortgage or security instrument may be foreclosed or enforced and any collateral sold under proceedings or actions permitted by law and a trustee under the mortgage or security agreement or the holder of any bonds or notes secured thereby may become a purchaser if it is the highest bidder.

e. Other terms and conditions.

3. The authority may provide in the resolution authorizing the issuance of the bonds or notes that the principal and interest shall be limited obligations payable solely out of the revenues derived from the debt obligation, collateral, or other security furnished by or on behalf of the beginning farmer, and that the principal and interest does not constitute an indebtedness of the authority or a charge against its general credit or general fund.

4. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 175.17, subsection 9 and section 175.19, subsection 4, apply to bonds or notes issued pursuant to and powers granted to the authority under this section except to the extent that they are inconsistent with this section.

[81 Acts, ch 68, §1]

Referred to in §16.221

175.34 Soil conservation loan program.

1. The authority shall establish a soil conservation loan program to facilitate the implementation of permanent soil and water conservation practices and the acquisition of conservation farm equipment for agricultural land within the state by making financing for this program available to credit worthy owners or operators of agricultural land within the state. The authority may provide this financing under the program by direct loans, loans to lenders, and the purchase of loans in the manner provided in sections 175.13 through 175.15, except that the financing pursuant to these sections shall not be limited to beginning farmers. In addition under the program, the authority may enter into a loan agreement with the owner or operator to finance in whole or in part the implementation of permanent soil and water conservation practices and the acquisition of conservation farm equipment for agricultural land in the state. The repayment obligation of the owner or operator may be unsecured, or may be secured by a mortgage or security agreement or by other security as the authority deems advisable, and may be evidenced by one or more notes of the owner or operator. The loan agreement may contain terms and conditions as the authority deems advisable.

2. In addition to the other conditions and criteria established for the soil conservation loan program, the following apply:

a. Loans made pursuant to the soil conservation loan program shall only be made to the owner or operator of a farm located within the state for which a conservation plan has been developed by the soil and water conservation district and the project for which the loan is to be made has been approved by the district. However, loans under the soil conservation loan program for implementation of a permanent soil and water conservation practice shall not be remitted to the applicant until the applicant provides evidence that payment of the permanent soil and water conservation practice is arranged for and the soil and water conservation district certifies that the practice is completed and approved.

b. The program and financing provided pursuant to the program shall not be limited to beginning farmers but shall be available to all credit worthy owners or operators of agricultural land within the state, however in providing financing for the acquisition of conservation farm equipment preference shall be given those owners or operators of agricultural land who have the lower net worths.

c. The division of soil conservation or any other state agency and the commissioners and staffs of the soil and water conservation districts may provide technical and financial assistance to the authority or in connection with the soil conservation loan program to assure the success of this program.

d. The amount of financing that may be provided under the soil conservation loan program shall not exceed the cost of implementing the permanent soil and water conservation practice or of acquiring the conservation farm equipment which the owner or operator is seeking to implement or acquire less any amounts the owner or operator will receive in public cost-sharing funds under chapter 161A or other provisions of state or federal law for the implementation or acquisition. However, the maximum amount of loans that an owner or operator may receive pursuant to this program shall not exceed fifty thousand dollars for permanent soil and water conservation practices and fifty thousand dollars for conservation farm equipment.

e. If a cooperator of a soil and water conservation district qualifies for cost sharing under a state soil conservation cost share program, the cooperator is eligible for a loan request. In granting these requests the authority shall give preference to those with the lower net worths.

3. The authority may issue its bonds and notes for the purposes set forth in subsection 1 and may enter into a lending agreement or purchase agreement with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. Bonds and notes must be authorized by a resolution of the authority. However, the authority shall not have a total principal amount of bonds and notes outstanding under this section at any time in excess of twenty-five percent of the limitation on the amount of bonds and notes at any time specified in section 175.17, subsection 1. The authority and the bondholders or noteholders may enter into an agreement to provide for any of the following:

a. That the proceeds of the bonds and notes and investments thereon may be received, held, and disbursed by the bondholders or noteholders, or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority, may collect, invest, and apply the amounts payable under the loan agreement or any other security instrument securing the debt obligation of the owner or operator of the agricultural land.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreement or security instrument on their own behalf without the appointment or designation of a trustee and if there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained therein, the payment or performance may be enforced in accordance with the provisions contained therein.

d. That if there is a default in the payment of the principal or interest on a mortgage or security instrument or a violation of an agreement contained in the mortgage or security instrument, the mortgage or security instrument may be foreclosed or enforced and any collateral sold under proceedings or actions permitted by law and a trustee under the mortgage or security agreement or the holder of any bonds or notes secured thereby may become a purchaser if it is the highest bidder.

e. Other terms and conditions.

4. The authority may provide in the resolution authorizing the issuance of the bonds or notes that the principal and interest are limited obligations payable solely out of the revenues

derived from the debt obligation, collateral, or other security furnished by or on behalf of the owner or operator of the agricultural land, and that the principal and interest do not constitute an indebtedness of the authority or a charge against its general credit or general fund.

5. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 175.12, section 175.17, subsection 9 and section 175.19, subsection 4, apply to bonds or notes issued pursuant to and powers granted to the authority under this section except to the extent that they are inconsistent with this section.

[82 Acts, ch 1243, §1]

83 Acts, ch 93, §2; 87 Acts, ch 23, §5

Referred to in §16.221

175.35 Agricultural loan assistance program. Repealed by 2013 Acts, ch 125, § 22 – 24.

[SP] 2013 repeal of this section takes effect June 17, 2013, and applies retroactively to January 1, 2013, for tax years beginning on or after that date; 2013 Acts, ch 125, §23, 24

175.36 Assistance and management programs for beef cattle producers.

1. The authority shall create and develop programs to assist agricultural producers who have established or intend to establish in this state, beef cattle production operations, including but not limited to the following assistance:

a. Insurance or loan guarantee program. An insurance or loan guarantee program to provide for the insuring or guaranteeing of all or part of a loan made to an agricultural producer for the acquisition of beef cattle to establish or expand a feeder cattle operation.

b. An interest buy-down program.

(1) The authority may contract with a participating lending institution and a qualified agricultural producer to reduce the interest rate charged on a loan for the acquisition of beef cattle breeding stock. The authority shall determine the amount that the rate is reduced, by considering the lending institution's customary loan rate for the acquisition of beef cattle breeding stock as certified to the authority by the lending institution.

(2) As part of the contract, in order to partially reimburse the lending institution for the reduction of the interest rate on the loan, the authority may agree to grant the lending institution any amount foregone by reducing the interest rate on that portion of the loan which is one hundred thousand dollars or less. However, the amount reimbursed shall not be more than the lesser of the following:

(a) Three percent per annum of the principal balance of the loan outstanding at any time for the term of the loan or within one year from the loan initiation date as defined by rules adopted by the authority, whichever is less.

(b) Fifty percent of the amount of interest foregone by the lending institution on the loan.

c. A cost-sharing program. The authority may contract with an agricultural producer to reimburse the producer for the cost of converting land planted to row crops to pasture suitable for beef cattle production. However, the amount reimbursed shall not be more than twenty-five dollars per acre converted, or fifty percent of the conversion costs, whichever is less. The contract shall apply to not more than one hundred fifty acres of row crop land converted to pasture. The converted land shall be utilized in beef cattle production for a minimum of five years. The amount to be reimbursed shall be reduced by the amount that the agricultural producer receives under any other state or federal program that contributes toward the cost of converting the same land from row crops to pasture.

d. A management assistance and training program. The authority in cooperation with any agency or instrumentality of the federal government or with any state agency, including any state university or those associations organized for the purpose of assisting agricultural producers involved in beef cattle production, or with any farm management company if such company specializes in beef cattle production or in assisting beef cattle producers, as prescribed by rules adopted by the authority, shall establish programs to train and assist agricultural producers to effectively manage beef cattle production operations.

2. An agricultural producer shall be eligible to participate in a program established under this section only if all the following criteria are satisfied:

a. The agricultural producer is a resident of the state.

b. The agricultural producer has land or other facilities available to establish a beef cattle production operation as prescribed by rules of the authority.

c. The agricultural producer is an individual, partnership, or a family farm corporation as defined in section 9H.1, subsection 9.

d. The land or other facilities available to establish a beef cattle production operation are located within the state.

e. The agricultural producer has a net worth of four hundred thousand dollars or less.

f. The agricultural producer develops a farm unit conservation plan, as defined in section 161A.42, with the commissioners of the soil and water conservation district where the land is located within one year from the date of entering into the program, unless the authority prescribes a shorter period of time by rule.

3. The authority shall adopt rules to enforce the provisions of this section or the terms of a contract to which the authority is a party. The authority may also enforce the provisions of this section or terms of the contract by bringing an action in any court of competent jurisdiction to recover damages. As a condition of entering into the program, the authority may require that the agricultural producer consent to the jurisdiction of the courts of this state to hear any matter arising from the provisions of this section.

87 Acts, ch 169, §4; 2009 Acts, ch 41, §263

Referred to in §16.221

175.36A Criteria for beginning farmers qualifying to participate in the beginning farmer tax credit program.

A beginning farmer qualifies to participate in the beginning farmer tax credit program by meeting all of the following criteria:

1. Is a resident of the state. If the beginning farmer is a partnership, all partners must be residents of the state. If a beginning farmer is a family farm corporation, all shareholders must be residents of the state. If the beginning farmer is a family farm limited liability company, all members must be residents of the state.

2. Has sufficient education, training, or experience in farming. If the beginning farmer is a partnership, each partner who is not a minor must have sufficient education, training, or experience in farming. If the beginning farmer is a family farm corporation, each shareholder who is not a minor must have sufficient education, training, or experience in farming. If the beginning farmer is a family farm limited liability company, each member who is not a minor must have sufficient education, training, or experience in farming.

3. Has access to adequate working capital and production items.

4. Will materially and substantially participate in farming. If the beginning farmer is a partnership, family farm corporation, or family farm limited liability company, each partner, shareholder, or member who is not a minor must materially and substantially participate in farming.

5. Is not responsible for managing or maintaining agricultural land and other agricultural assets that are greater than necessary to adequately support a beginning farmer as determined by the authority according to rules which shall be adopted by the authority.

2013 Acts, ch 125, §6, 23, 24

Referred to in §175.2

[SP] For future repeal of this section effective December 31, 2017, see 2013 Acts, ch 125, §25, 28

[SP] Section takes effect June 17, 2013, and applies retroactively to January 1, 2013, for tax years beginning on or after that date; 2013 Acts, ch 125, §23, 24

[T] NEW section

175.36B Administration of beginning farmer tax credit program.

1. To every extent practicable, the authority shall administer tax credits under the beginning farmer tax credit program in a uniform manner that encourages participation by qualified beginning farmers. The authority shall determine a qualified beginning farmer's low or moderate net worth by using a single method applicable to all its programs, including the beginning farmer tax credit program.

2. The authority shall establish a due date to receive applications to participate in the beginning farmer tax credit program. The authority may establish different due dates for applications to qualify for each beginning farmer tax credit.

3. The department of revenue shall cooperate with the authority in administering the beginning farmer tax credit program.

2013 Acts, ch 125, §7, 23, 24

[SP] For future repeal of this section effective December 31, 2017, see 2013 Acts, ch 125, §25, 28

[SP] Section takes effect June 17, 2013, and applies retroactively to January 1, 2013, for tax years beginning on or after that date; 2013 Acts, ch 125, §23, 24

[T] NEW section

175.37 Agricultural assets transfer tax credit — agreement.

1. An agricultural assets transfer tax credit is allowed under this section. The tax credit is allowed against the taxes imposed in chapter 422, division II, as provided in section 422.11M, and in chapter 422, division III, as provided in section 422.33, to facilitate the transfer of agricultural assets from a taxpayer to a qualified beginning farmer.

2. In order to qualify for the tax credit, the taxpayer must meet qualifications established by rules adopted by the authority. At a minimum, the taxpayer must comply with all of the following:

a. Be a person who may acquire or otherwise obtain or lease agricultural land in this state pursuant to chapter 9H or 9I. However, the taxpayer must not be a person who may acquire or otherwise obtain or lease agricultural land exclusively because of an exception provided in one of those chapters or in a provision of another chapter of this Code including but not limited to chapter 10, 10D, or 501, or section 15E.207.

b. Execute an agricultural assets transfer agreement with a qualified beginning farmer as provided in this section.

3. An individual may claim a tax credit under this section of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

4. The tax credit is allowed only for agricultural assets that are subject to an agricultural assets transfer agreement. The agreement shall provide for the lease of agricultural land located in this state, including any improvements and may provide for the rental of agricultural equipment as defined in section 322F.1.

a. The agreement shall include a lease made on a cash basis or on a commodity share basis which includes a share of the crops or livestock produced on the agricultural land. The agreement must be in writing.

b. The agreement shall be for at least two years, but not more than five years. The agreement or that part of the agreement providing for the lease may be renewed by the qualified beginning farmer for a term of at least two years, but not more than five years. An agreement does not include a lease or the rental of equipment intended as a security.

c. The agricultural transfer agreement cannot be assigned and the land subject to the agreement cannot be subleased.

5. The tax credit shall be based on the agricultural assets transfer agreement. The agreement shall be based on a cash basis or a commodity share basis or both.

a. For an agreement that includes a lease on a cash basis, the tax credit shall be computed as follows:

(1) If the qualified beginning farmer is not a veteran, the taxpayer may claim a tax credit equal to seven percent of the gross amount paid to the taxpayer under the agreement for each tax year that the tax credit is allowed.

(2) If the qualified beginning farmer is a veteran, the taxpayer may claim eight percent of the gross amount paid to the taxpayer under the agreement for the first year that the tax credit is allowed and seven percent of the gross amount paid to the taxpayer for each subsequent tax year that the tax credit is allowed. However, the taxpayer may only claim seven percent of the gross amount paid to the taxpayer under a renewed agreement or a new agreement executed by the same parties.

b. For an agreement that includes a lease on a commodity share basis, the tax credit shall be computed as follows:

(1) (a) If the qualified beginning farmer is not a veteran, the taxpayer may claim a tax

credit equal to seventeen percent of the amount paid to the taxpayer from crops or animals sold under the agreement in which the payment is exclusively made from the sale of crops or animals.

(b) If the qualified beginning farmer is a veteran, the taxpayer may claim a tax credit equal to eighteen percent of the amount paid to the taxpayer from crops or animals sold under the agreement for the first tax year that the taxpayer is allowed the tax credit and seventeen percent of the amount paid to the taxpayer for each subsequent tax year that the taxpayer is allowed the tax credit. However, the taxpayer may only claim seventeen percent of the amount paid to the taxpayer from crops or animals sold for any tax year under a renewed agreement or a new agreement executed by the same parties.

(2) Notwithstanding subparagraph (1), the authority may elect an alternative method to compute a tax credit for a lease based on a crop share basis. The alternative method shall utilize a formula which uses data compiled by the United States department of agriculture. The formula shall calculate the amount of the tax credit by multiplying the average per bushel yield for the same type of grain as produced under the lease in the same county where the leased land is located by a per bushel state price established for such type of grain harvested the previous fall.

6. A tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit. A tax credit shall not be transferable to any other person other than the taxpayer's estate or trust upon the taxpayer's death.

7. A taxpayer shall not claim a tax credit under this section unless a tax credit certificate issued by the authority is attached to the taxpayer's tax return for the tax year for which the tax credit is claimed. The authority must review and approve an application for a tax credit as provided by rules adopted by the authority. The application must include a copy of the agricultural assets transfer agreement. The authority may approve an application and issue a tax credit certificate to a taxpayer who has previously been allowed a tax credit under this section. The authority may require that the parties to an agricultural assets transfer agreement provide additional information as determined relevant by the authority. The authority shall review an application for a tax credit which includes the renewal of an agricultural assets transfer agreement to determine that the parties to the renewed agreement meet the same qualifications as required for an original application. The authority shall not approve an application or issue a tax credit certificate to a taxpayer for an amount in excess of fifty thousand dollars. In addition, the authority shall not approve an application or issue a certificate to a taxpayer if any of the following applies:

a. The taxpayer is at fault for terminating a prior agricultural assets transfer agreement as determined by the authority.

b. The taxpayer is any of the following:

(1) A party to a pending administrative or judicial action, including a contested case proceeding under chapter 17A, relating to an alleged violation involving an animal feeding operation as regulated by the department of natural resources, regardless of whether the pending action is brought by the department or the attorney general.

(2) Classified as a habitual violator for a violation of state law involving an animal feeding operation as regulated by the department of natural resources.

c. The agricultural assets are being leased or rented at a rate which is substantially higher or lower than the market rate for similar agricultural assets leased or rented within the same community, as determined by the authority.

8. A taxpayer or the qualified beginning farmer may terminate an agricultural assets transfer agreement as provided in the agreement or by law. The taxpayer must immediately notify the authority of the termination.

a. If the authority determines that the taxpayer is not at fault for the termination, the authority shall not issue a tax credit certificate to the taxpayer for a subsequent tax year based on the approved application. Any prior tax credit is allowed as provided in this section. The taxpayer may apply for and be issued another tax credit certificate for the same agricultural assets as provided in this section for any remaining tax years for which a certificate was not issued.

b. If the authority determines that the taxpayer is at fault for the termination, any prior tax credit allowed under this section is disallowed. The amount of the tax credit shall be immediately due and payable to the department of revenue. If a taxpayer does not immediately notify the authority of the termination, the taxpayer shall be conclusively deemed at fault for the termination.

2006 Acts, ch 1161, §2, 7; 2007 Acts, ch 22, §45; 2009 Acts, ch 135, §2, 3; 2011 Acts, ch 118, §32, 89; 2013 Acts, ch 125, §8 – 17, 23, 24

Referred to in §2.48, 16.221, 175.2, 175.38, 175.39, 422.11M, 422.33

[SP] For future repeal of 2013 amendments to this section effective December 31, 2017, see 2013 Acts, ch 125, §25, 28

[SP] Former subsection 10 applied to agricultural assets transfer agreements executed on or after July 1, 2009; 2009 Acts, ch 135, §3

[SP] 2013 amendments take effect June 17, 2013, and apply retroactively to January 1, 2013, for tax years beginning on or after that date; 2013 Acts, ch 125, §23, 24

[T] Subsection 1 amended

[T] Subsection 2, paragraph b amended

[T] Subsections 4 and 5 amended

[T] Subsection 6 stricken and former subsections 7 – 9 renumbered as 6 – 8

[T] Subsection 7, unnumbered paragraph 1 amended

[T] Subsection 7 paragraph c stricken and former paragraph d redesignated as c

[T] Subsection 8, unnumbered paragraph 1 amended

[T] Subsection 8, paragraph b amended

[T] Former subsection 10 stricken

175.38 Custom farming contract tax credit.

1. A custom farming contract tax credit is allowed under this section. The tax credit is allowed against the taxes imposed in chapter 422, division II, as provided in section 422.11M, and in chapter 422, division III, as provided in section 422.33, to encourage taxpayers who are considering custom farming agricultural land located in this state to negotiate with qualified beginning farmers.

2. In order to be eligible to claim a custom farming contract tax credit, the taxpayer must meet qualifications established by rules adopted by the authority. At a minimum, the taxpayer must be a person who may acquire or otherwise obtain or lease agricultural land in the same manner as provided for a taxpayer claiming an agricultural assets transfer tax credit under section 175.37.

3. An individual may claim a custom farming contract tax credit of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

4. A custom farming contract tax credit is allowed only for the amount paid by the taxpayer to a qualified beginning farmer under a custom farming contract as provided in rules adopted by the department. The contract must provide for the production of crops located on agricultural land or the production of livestock principally located on agricultural land. The agricultural land must be real estate and any improvements used for farming in which the taxpayer holds a legal or equitable interest.

5. The custom farming contract must provide that the taxpayer pay the qualified beginning farmer on a cash basis. The contract must be in writing for a term of not more than twelve months. The total cash payment must equal at least one thousand dollars.

6. The taxpayer must make all management decisions substantially contributing to or affecting the production of crops located on the agricultural land or the production of livestock principally located on the agricultural land. However, nothing in this paragraph prohibits a qualified beginning farmer from regularly or frequently taking part in making day-to-day operational decisions affecting production. The qualified beginning farmer must provide for all of the following:

a. Production items principally used to produce crops located on the agricultural land or to produce livestock principally located on the agricultural land.

b. Labor principally used to produce crops located on the agricultural land or to produce livestock principally located on the agricultural land. The qualified beginning farmer must personally provide such labor on a regular, continuous, and substantial basis.

7. A custom farming contract tax credit is not allowed if the taxpayer and qualified beginning farmer are related as any of the following:

a. Persons who hold a legal or equitable interest in the same agricultural land, including as individuals or as general partners, limited partners, shareholders, or members in the same business entity as defined in section 501A.102.

b. Family members related as spouse, child, stepchild, brother, or sister.

c. Partners in the same partnership which holds agricultural land, or shareholders in the same family farm corporation or members in the same family farm limited liability company and defined in section 9H.1.

8. A custom farming contract tax credit shall be calculated based on the gross amount paid to the qualified beginning farmer under the custom farming contract.

a. If the qualified beginning farmer is not a veteran, the taxpayer may claim a tax credit equal to seven percent of the gross amount paid to the qualified beginning farmer under the contract for each tax year that the tax credit is allowed.

b. If the qualified beginning farmer is a veteran, the taxpayer may claim a tax credit equal to eight percent of the gross amount paid to the qualified beginning farmer under the contract for the first year that the tax credit is allowed and seven percent of the gross amount paid to the qualified beginning farmer under the contract for each subsequent tax year that the tax credit is allowed. However, the taxpayer may only claim seven percent of the gross amount paid to the qualified beginning farmer under a renewed contract or a new contract executed by the same parties.

9. A custom farming contract tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit. A tax credit shall not be transferable to any other person other than the taxpayer's estate or trust upon the taxpayer's death.

10. A taxpayer shall not claim a custom farming contract tax credit unless a tax credit certificate issued by the authority under this section is attached to the taxpayer's tax return for the tax year for which the tax credit is claimed. The authority must review and approve an application for a tax credit certificate as provided by rules adopted by the authority. The application must include a copy of the custom farming contract. The authority may approve an application and issue a tax credit certificate to a taxpayer who has previously been allowed a tax credit under this section. The authority may require that the parties to the contract provide additional information as determined relevant by the authority. The authority shall review an application for a tax credit certificate which includes the renewal of a contract to determine that the parties to the renewed contract meet the same qualifications as required for an original application. The authority shall not approve an application or issue a tax credit certificate to a taxpayer for an amount in excess of fifty thousand dollars. In addition, the authority shall not approve an application or issue a tax credit certificate to a taxpayer if any of the following applies:

a. The taxpayer is at fault for terminating another custom farming contract, as determined by the authority.

b. The taxpayer is party to a pending administrative or judicial action, or classified as a habitual violator in the same manner as provided in section 175.37.

c. The contract amount is substantially higher or lower than the market rate for a similar custom farming contract, as determined by the authority.

11. A taxpayer or the qualified beginning farmer may terminate a custom farming contract as provided in the contract or by law. The taxpayer must immediately notify the authority of the termination.

a. If the authority determines that the taxpayer is not at fault for the termination, the authority shall not issue a tax credit certificate to the taxpayer for a subsequent tax year based on the approved application. Any prior tax credit is allowed as provided in this section until its expiration. The taxpayer may apply for and be issued another tax credit certificate for the same agricultural land under a custom farming contract with another qualified beginning farmer.

b. If the authority determines that the taxpayer is at fault for the termination, any prior tax credit allowed under this section is disallowed, and the amount of the tax credit shall be immediately due and payable to the department of revenue. If a taxpayer does not immediately notify the authority of the termination, the taxpayer shall be conclusively deemed at fault for the termination.

2013 Acts, ch 125, §18, 23, 24

Referred to in §2.48, 175.2, 175.39, 422.11M, 422.33

[SP] For future repeal of this section effective December 31, 2017, see 2013 Acts, ch 125, §25, 28

[SP] Section takes effect June 17, 2013, and applies retroactively to January 1, 2013, for tax years beginning on or after that date; 2013 Acts, ch 125, §23, 24

[T] NEW section

175.39 Tax credit certificates — availability.

1. The amount of tax credits that may be issued to support the beginning farmer tax credit program shall not in the aggregate exceed twelve million dollars in any year. Of the aggregate amount, eight million dollars is allocated to support the agricultural assets transfer tax credit as provided in section 175.37 and four million dollars is allocated to support the custom farming contract tax credit as provided in section 175.38. However, the authority's board of directors may at any time during the year adjust the allocation by adopting a resolution.

2. The authority shall issue tax certificates to support a beginning farmer tax credit on a first-come, first-served basis.

2013 Acts, ch 125, §19, 23, 24

[SP] For future repeal of this section effective December 31, 2017, see 2013 Acts, ch 125, §25, 28

[SP] Section takes effect June 17, 2013, and applies retroactively to January 1, 2013, for tax years beginning on or after that date; 2013 Acts, ch 125, §23, 24

[T] NEW section